

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v

No. 12-cr-20272

D-3 ABDUL MALIK AL-JUMAIL
D-4 FELICAR WILLIAMS
D-6 JAMELLA AL-JUMAIL
D-10 CAREY VIGOR

Defendants.

_____ /

JURY TRIAL

BEFORE THE HONORABLE DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Tuesday, August 12, 2014

APPEARANCES:

For the Plaintiff:

PATRICK J. HURFORD
U.S. Department of Justice
Criminal Division, Fraud Section
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9553

BROOKE HARPER
U.S. Department of Justice
Northern District of Illinois
291 South Dearborn Street
Fifth Floor
Chicago, Illinois 60604

APPEARANCES:

(Continued)

For the Plaintiff:

CHRISTOPHER CESTARO
U.S. Department of Justice
Health Care Fraud Unit
Fraud Section, Criminal Division
1400 New York Avenue, N.W.
Washington, D.C. 20005
(202) 353-7901

For the Defendant
Abdul Malik
Al-Jumail:

NABIH H. AYAD
Ayad Law, PLLC
645 Griswold Street. Suite 2202
Detroit, Michigan 48226
(313) 983-4600

For the Defendant
Felicar Williams:

STEPHON E. JOHNSON
615 Griswold, Suite 215
Detroit, Michigan 48226
(313) 502-5962

For the Defendant
Jamella Al-Jumail:

MARIA P. MANNARINO
431 Gratiot Avenue
Detroit, Michigan 48226
(313) 761-7347

For the Defendant
Carey Vigor:

PAUL C. LOUISELL
Musilli Brennan Associates, PLLC
24001 Greater Mack
St. Clair Shores, Michigan 48080
(586) 778-0900

Reported by:

Merilyn J. Jones, RPR, CSR
Official Federal Court Reporter
merilyn_jones@mied.uscourts.gov

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WITNESSES: DEFENDANT

None

EXHIBITS:IdentifiedReceived

None

1 Detroit, Michigan

2 Tuesday, August 12, 2014 - 1:23 p.m.

3 THE CLERK: All rise. The United States District
4 Court for the Eastern District of Michigan is now in session
5 The Honorable Denise Page Hood presiding.

6 You may be seated.

7 Calling Case Number 1220272, United States versus
8 Abdul Malik Al-Jumail, Felicar Williams, Jamella Al-Jumail and
9 Dr. Carey Vigor.

10 Counsel, identify yourselves for the record.

11 THE COURT: I'm doing that again because I have a
12 new court reporter. Okay.

13 MR. HURFORD: Patrick Hurford, Brooke Harper, Chris
14 Cestaro appearing of behalf of the United States. Also seated
15 at counsel table is Mark Williams, paralegal with the
16 Department of Justice, as well as, Special Agent Michael
17 Fairbanks and Mark Krieg.

18 MR. AYAD: Good afternoon, judge. Attorney Nabih
19 Ayad on behalf of Mr. Tony Al-Jumail standing directly to my
20 left.

21 MR. JOHNSON: Good afternoon, your Honor. Stephon
22 Johnson on behalf of Ms. Felicar Williams, who is present to my
23 right.

24 MS. MANNARINO: And good afternoon. Maria
25 Mannarino on behalf of Jamella Al-Jumail, who is present and

1 standing to my left.

2 MR. LOUISELL: Good afternoon, your Honor. Paul
3 Louisell appearing on behalf of Dr. Carey Vigor who is standing
4 to my left.

5 THE COURT: Okay. Very good. As you all should
6 know, I have asked Ms. Daniel to check the record so I can see
7 how many times that this was, "counter terrorism unit" was said
8 and so the record will ultimately reflect that accurately as
9 taken by her, I'm sure you all will agree, that Mr. Hurford
10 asked Agent Elverson what his specialty, what he did, and his
11 answer was that he was a special agent for the FBI. He asked
12 how long. He said, four years. He was asked about his
13 assignment, where he said he was in the counter terrorism, I
14 don't remember if she told me unit, or whatever. Then he later
15 asked him did he also have any other assignment and he began by
16 saying, "aside from counter terrorism unit", where there was an
17 objection, and then after I said we would not take it up at
18 sidebar he repeated his full question saying again, "aside from
19 counter terrorism unit".

20 So I think there were three times.

21 Do you think more than that, Ms. Mannarino?

22 MS. MANNARINO: I know I heard more than once. I
23 can't accurately pinpoint how many. So I appreciate the court
24 asking the court reporter to check on that.

25 THE COURT: Okay. Very well.

1 THE COURT: I don't know whether it will call more
2 attention to it if we repeat it again or not. I think Mr.
3 Hurford has agreed to clear it up.

4 And are you all satisfied with how he will do
5 that?

6 MS. MANNARINO: I believe Mr. Hurford has
7 determined not to clear it up and to leave it to us to clear it
8 up if we so desire.

9 THE COURT: That's fine.

10 Would you like me to clear it up? I mean, I think
11 that it's clear from the testimony that he was not acting in
12 his present counter terrorism unit in investigating them, but
13 he was assigned to the arrest team because of some evidence
14 response training that he has, it appears.

15 But if you'd like me to clear it up, I'm happy to
16 do that.

17 MR. AYAD: My preference would be for the
18 government to clear it up because they are the most credible
19 about this particular questioning.

20 Number two, if that's not the case, I prefer that
21 I ask him a question on that and that if your Honor would
22 follow with basically reaffirming that position, I would
23 appreciate that, judge, because it is important.

24 THE COURT: No, I'll either clear it now, I can
25 clear it up. I will be happy to say that this is not a counter

1 terrorism unit investigation.

2 Is that correct, Mr. Hurford.

3 MR. HURFORD: That's correct, your Honor.

4 THE COURT: Okay.

5 And that his assignment to this arrest team did
6 not have anything to do with the unit he is in.

7 MR. AYAD: That would be fine, judge. I just
8 wanted a little more elaboration. Thank you.

9 THE COURT: Very good.

10 Do you have objection to that?

11 MR. HURFORD: Absolutely, not. I would ask, ask
12 that witness confirm that those are the correct answers because
13 I actually never talked to him about whether --

14 THE COURT: Well, he's under oath.

15 MR. HURFORD: I know.

16 THE COURT: I assume he gave the correct answer
17 about where his assignment is, right?

18 MR. HURFORD: Correct. I just -- he might want to
19 confirm the questions you're about to ask before we bring the
20 jury in. I'm just trying to be safe.

21 THE COURT: So, you don't know the answer as to
22 whether or not he was assigned there for some other reason than
23 being on the arrest.

24 MR. HURFORD: I think that's the only reason he was
25 assigned there, your Honor. I never specifically asked him

1 that question.

2 THE COURT: Okay.

3 You're still under oath?

4 Yes?

5 THE WITNESS: Yes, your Honor.

6 THE COURT: Agent Elverson, is that right?

7 THE WITNESS: Yes, your Honor.

8 THE COURT: Is the name of your unit the counter
9 terrorism unit?

10 THE WITNESS: Yes.

11 THE COURT: Counter terrorism?

12 THE WITNESS: Correct.

13 THE COURT: And you were assigned to this arrest
14 team; is that right?

15 THE WITNESS: That is correct.

16 THE COURT: And were you assigned there because
17 you're part of the counter terrorism unit?

18 THE WITNESS: No.

19 THE COURT: Okay. And you were just assigned
20 there because of your evidence skills?

21 THE WITNESS: More so just that they needed
22 someone there. I was there, your Honor.

23 THE COURT: A warm body in the right place?

24 THE WITNESS: Correct.

25 THE COURT: And so, to your knowledge there

1 wasn't anything related to counter terrorism in this arrest?

2 THE WITNESS: No, your Honor.

3 THE COURT: Do you speak any languages other than
4 English?

5 THE WITNESS: No, I do not.

6 THE COURT: So now we know that he's not assigned
7 there because of anything having to do with the counter
8 terrorism unit and he's not assigned there because of any
9 special language skills; is that fair?

10 MR. AYAD: That's fair, judge.

11 Again, so long as your Honor asks that -- what you
12 stated.

13 THE COURT: I'm not going to promise I'm going to
14 say it verbatim, Mr. Ayad. If you object to how I say it, you
15 are welcome to do so.

16 MR. AYAD: You're the judge. I'm not going to
17 challenge it.

18 THE COURT: Ms. Mannarino?

19 MS. MANNARINO: I have nothing further. Thank you.

20 THE COURT: Mr. Hurford.

21 MR. HURFORD: Nothing, your Honor.

22 THE COURT: All right. Let's bring out the jury.
23 And I don't expect this will come up, this unit,
24 anymore during his examination, right?

25 MR. HURFORD: I don't either.

1 THE COURT: Unless the defense wants to ask it at
2 their own peril.

3 MR. AYAD: I'm sorry. What was the question?

4 THE COURT: I don't expect the counter terrorism
5 unit to come up again by the government or the defendants, but
6 if the defendants bring it up, it's at your own peril.

7 MR. AYAD: That's correct, your Honor. Thank you.

8 THE COURT: Okay.

9 (At 1:30 p.m. jury present)

10 THE COURT: You may all be seated.

11 I'm satisfied the jury is present in their proper
12 seats, what about counsel?

13 MR. HURFORD: Yes, your Honor.

14 MR. JOHNSON: Yes, your Honor.

15 MR. AYAD: So satisfied.

16 MS. MANNARINO: So satisfied.

17 MR. JOHNSON: Satisfied, your Honor.

18 THE COURT: Thank you for taking a shorter lunch
19 than usual and I just want to advise you something. The
20 witness on the stand, Agent Elverson, I am sure I'm going to
21 get that wrong again, indicated that he was a part of a counter
22 terrorism unit in his regular assignment.

23 The counter terrorism unit has nothing to do with
24 the investigation of this alleged health care fraud. All
25 right. And so he is not assigned there for any purpose related

1 to his usual unit. He's just assigned there as part of the
2 arrest team. All right.

3 THE JURY PANEL: Okay.

4 THE COURT: That's satisfactory, everyone?

5 MR. HURFORD: Yes, your Honor.

6 MR. AYAD: Yes, your Honor.

7 MS. MANNARINO: Thank you. No objection.

8 THE COURT: Okay. Very well.

9 You may proceed. Mr., Agent Elverson is under
10 oath.

11 THE WITNESS: Yes, your Honor.

12 C H R I S T O P H E R E L V E R S O N,
13 called by the Government, previously sworn, testified as
14 follows:

15 DIRECT EXAMINATION(continuing)

16 BY MR. HURFORD:

17 Q. Agent Elverson, before we took a break I asked you about
18 whether Mr. Al-Jumail told you he paid the community liaisons.
19 Did you ask him how much he paid the liaisons?

20 A. I did. He stated they were paid several hundred dollars
21 for each patient.

22 Q. And you stated on, before the break you stated about the
23 payment, you talked about the payment and eligibility checks.
24 Did you ask what happened after eligibility checks were
25 performed?

1 A. Yes. So once it was determined that the patient was not
2 being seen by another home health care company and that the
3 patient was billable, their insurance was billable by
4 Associates, Associates would send a nurse to visit the patient
5 and complete an initial form. Upon completion of that form a
6 treatment plan would be established which generally involved
7 either a nurse or some other kind of therapist seeing a patient
8 one to two times per week.

9 Q. And did he say how long that went on for?

10 A. Yes. So he stated that that would go on for no more than
11 two episodes under one health care company such as Associates.
12 At the end of two episodes -- the reason it wouldn't go pass
13 two episodes is because it may look suspicious to law
14 enforcement or medicare and that, so at the end of two
15 episodes, they would transfer the patient to Swift or if the
16 patient had already been seen at Swift, they would transfer
17 them back to Associates and they might do that multiple times.

18 Q. And did you ask how long an episode was?

19 A. Yes. An episode, he said, was 60 days.

20 Q. And between, between episodes, the 60-day period, did you
21 ask about recertifications?

22 A. I did. So he explained that at the end of an episode, or
23 60 days, a patient was required to be recertified by a doctor
24 and one doctor that he mentioned that commonly did
25 recertification for their parents was a female doctor by the

1 name of Sharma.

2 Q. Did you ask whether Mr., did you ask Mr. Al-Jumail whether
3 he paid the liaison if one of their patients was recertified?

4 A. Yes. So, ever time a patient was recertified the liaison
5 would get paid again.

6 Q. Did you ask Mr. Al-Jumail if he knew that paying liaisons
7 and switching patients was illegal?

8 A. Yes. Mr. Al-Jumail admitted that paying liaisons and
9 patients and rotating patients back and forth between the, you
10 know, Associates and Swift that all of that was fraudulent.

11 Q. And did you ask Mr. Al-Jumail whether Associates billed
12 for services that were not provided?

13 A. Yes. Mr. Al-Jumail explained that sometimes a patient
14 would only be seen once in a week but that they would be bill
15 for two visits and that the paperwork kept by the nurses and/or
16 therapist was not always perfect.

17 MR. HURFORD: No further questions, your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Ayad, do you wish to question this witness?

20 MR. AYAD: Yes, your Honor. Thank you.

21 THE COURT: You may.

22 CROSS-EXAMINATION

23 BY MR. AYAD:

24 Q. Good afternoon, Agent Elverson?

25 A. Good afternoon.

1 Q. Agent, in May of 2012 how long have you been employed with
2 the FBI?

3 A. In May of 2012 that would be approximately two years.

4 Q. Actually, is it under two years?

5 A. Yes.

6 Q. So under two years at the time that you conducted the
7 interview of this defendant, Mr. Al-Jumail, correct?

8 A. That is correct.

9 Q. And before that you worked as an engineer, correct?

10 A. That's correct.

11 Q. You had no prior law enforcement training before your time
12 at the FBI; isn't that correct?

13 A. That's correct.

14 Q. You were never educated in law enforcement before your
15 time at the FBI; isn't that correct?

16 A. That is correct.

17 Q. So here you are on May 2nd of 2012, correct, questioning
18 an individual that you have under literally two years of
19 experience in law enforcement, in this case the FBI, and you
20 are not an agent in the investigation; isn't that correct?

21 A. That is correct.

22 Q. Okay.

23 So you really didn't know the details of this
24 investigation, did you?

25 A. Only just a brief synopsis that I received in a brief.

1 Q. And that was a one time brief synopsis before you
2 interviewed him?

3 A. One, possibly two short briefs.

4 Q. Okay.

5 Did you ask Mr. Al-Jumail certain questions
6 related to whether he is of a sound mind, basically, to answer
7 your questions?

8 A. I don't remember asking a question along those lines.

9 Q. Okay. Now can you tell me, please, what time did you
10 arrest Mr. Al-Jumail?

11 A. Approximately 6:30 in the morning.

12 Q. Six thirty in the morning.

13 Did you ask Mr. Al-Jumail what time he went to bed
14 that evening?

15 A. Not to my recollection, sir.

16 Q. Did you know if he went to bed that evening?

17 A. Possibly not.

18 Q. Okay.

19 Did you ask Mr. Al-Jumail if he's under any kind
20 of influence such as alcohol or prescription drugs of any sort?

21 A. Well, we did talk about it a little bit because, you know,
22 we asked him about medication and that's when he told us about
23 his blood pressure medication which is why we made sure he
24 brought it along with him when we took him to the office.

25 Q. Okay.

1 So he told you he was under blood pressure
2 medication, correct?

3 A. Correct.

4 Q. In fact, didn't he take a blood pressure medication pill?

5 A. Yes, he did.

6 Q. Okay.

7 And did you ask him specifically, though, as to
8 whether he's under the influence of alcohol for instances?

9 A. I don't remember, but I would, it would only be a guess
10 that we would discuss it, given he was about to take
11 medication.

12 Q. You said you don't remember. Would you like me to refresh
13 your memory?

14 We have your statement right here, would you like
15 to look at that?

16 A. I don't believe there's anything about, specifically about
17 alcohol in that report.

18 Q. So, it would be fair to say that you didn't question him
19 about whether he's under the influence of alcohol?

20 A. I wouldn't say it wouldn't fair. I just don't remember.

21 Q. But if I tell you in your statement there's nothing
22 relating to you questioning him about alcohol, would I be
23 incorrect?

24 A. Would you be incorrect?

25 Q. Yes.

1 A. No.

2 Q. Okay.

3 And you never asked him how long he was up that
4 evening?

5 A. Not that I remember, no.

6 Q. Okay.

7 Did you ask him how far did he get in school by
8 any chance?

9 A. I don't remember if we discussed how far he made it in
10 school. I know we asked him if he was medically trained, which
11 he stated he was not.

12 Q. Agent Elverson, it seems like you are having a problem
13 remembering. Would it be safe to say, sir, that once you
14 question --

15 MR. HURFORD: Objection to the attorney
16 characterizing the defendant(sic) as having a difficult time
17 remembering.

18 THE COURT: Sustained. It does not appear that
19 he's having a problem, he said he's having a difficult time
20 remembering. Rephrase your question.

21 MR. AYAD: All right.

22 Q. (By Mr. Ayad, continuing) Okay. Would it be safe, Agent
23 Elverson, to say that any questions that you posed to him you
24 would have, and any answers that he gave you, would have been
25 on this sheet you wrote, your FBI 302's?

1 A. Not necessarily.

2 Q. Oh, so, there were would be certain statements that,
3 certain questions you would ask and certain statements, answers
4 he would give that you would not put on this FBI 302?

5 A. Well, sometimes you may have more casual conversations,
6 you know, there was, between giving him a restroom break and
7 water, and all that, I'm sure we were not completely silent
8 during that time. So things may have been stated that I did
9 not take notes of or write down because they didn't seem
10 pertinent.

11 Q. Mr. Elverson, wouldn't you agree with me, sir, that
12 whether a witness can understand one's language to what is
13 written before him before he signs a document is important?

14 A. Yes.

15 Q. And wouldn't you want to ask him that question before you
16 have him sign the document?

17 A. I don't know what question you're referring to.

18 Q. I'm saying you had him sign on government's exhibit?

19 THE COURT: One twenty-five.

20 Q. (By Mr. Ayad, continuing) Exhibit 125, what's called the
21 advice of rights form; isn't that correct?

22 A. That is correct.

23 Q. And in that it says, "You have the right to remain
24 silent"; isn't that correct?

25 A. It does say that, yes.

1 Q. "You have the right to talk to a lawyer for advice before
2 we ask any questions", didn't you ask him that?

3 A. I did.

4 Q. Okay.

5 "You have a right to have a lawyer during
6 questioning"?

7 A. Correct.

8 Q. All right.

9 And these are written information and at the end
10 he has to consent by saying, at this time I'm willing to answer
11 questions without a lawyer present; isn't that correct?

12 A. That is correct.

13 Q. And he signs off on the consent form, basically, the
14 advice of rights form, correct?

15 A. Correct.

16 Q. All right.

17 Did you ask him whether he understood what he was
18 reading?

19 A. I did.

20 Q. You did?

21 A. Yes.

22 Q. Can you tell me why you wouldn't put it in your statement
23 that you asked him whether he understood what he was reading?

24 A. Well, I believe I do make a statement to that effect. I
25 think it's early on in the interview we read him the form; he

1 stated he understood the form, and he initialled and sign it.

2 Q. Okay.

3 So your testimony, Agent Elverson, is that you
4 read it to him and he signed off on it?

5 A. Ever time I've done an advice of rights form the form is
6 available for the individual to read; I also read it aloud to
7 the individual, and I ask them if they have any questions, if
8 they can understand it okay, and I would have provided it in
9 another language had he requested it.

10 Q. Okay.

11 But again, you read it to him, and had it been
12 said that, you know, this is an agreement that you murdered an
13 individual and you said something different, he just signs off
14 to it, that would have been -- let me withdraw.

15 He didn't read this particular statement, did he?

16 A. I believe he did read it.

17 Q. You believe he read it. But you don't know that because
18 you never ask him whether he knows how to read or not?

19 A. I showed him the form to him and I asked him to read it
20 over. I also read it to him and he initialed and signed that
21 he did in fact understand the form.

22 Q. Okay.

23 But that's because you told him to read. Did you
24 ask him the question, do you know how to read?

25 A. I do not think that I asked him if he knew how to read.

1 Q. And what time, again, was this, at 6:30 in the morning you
2 arrested him?

3 A. We arrested him at 6:30 in the morning.

4 Q. Now, being an FBI agent, Agent Elverson, were you trained
5 in taking evidence?

6 A. I was, yes.

7 Q. And you would consider Mr. Al-Jumail's statements to you
8 as evidence, isn't that kind of a form of evidence?

9 A. I would consider it testimonial.

10 Q. Testimonial evidence, correct?

11 A. That sounds correct.

12 Q. Okay.

13 And were you trained in videography as to the
14 ability to take video of a witness?

15 A. I do not believe that was part of training.

16 Q. Okay.

17 Were you trained in recording a witness's
18 statement, audio?

19 A. No.

20 Q. What I'm getting at, Mr., Agent Elverson, is that did you
21 feel what he said in here was important when he talked to you?

22 A. I did, yes.

23 Q. You did.

24 And why didn't you have him just sign, basically,
25 the bottom of the form that this is indeed what you said, Mr.

1 Al-Jumail?

2 A. Well, first of all, that form as you see, it was not typed
3 up during the interview, so that wouldn't have been possible.

4 Q. Okay.

5 Well, you wrote some information down when you
6 were taking this information, correct?

7 A. I took notes, yes.

8 Q. You took notes.

9 Couldn't you have said certain statements and at
10 the end of your, whatever, two-page, three-page, four-page
11 document have him sign it indeed this is my statement?

12 A. That would have been possible, yes.

13 Q. Yes.

14 In fact, you had him sign this advice of rights
15 form, did you not?

16 A. Yes, I did.

17 Q. So you were aware already that he could have said certain
18 statements and you had him sign on the bottom that indeed these
19 were, these are my statements, correct?

20 A. I'm sorry. What was the question?

21 Q. You've had him sign an advice of rights before and the
22 advice of rights basic form, basically, says that I acknowledge
23 I understand this, correct?

24 A. Yes.

25 Q. Okay. Why didn't you have him sign a statement saying

1 these are indeed my answers to your questions, Agent Elverson,
2 here is my signature to assure that that is my statement?

3 A. That's just not a standard practice during an interview.

4 Q. But you would agree with me that would have been a better
5 practice, would it not?

6 A. I would not.

7 MR. HURFORD: Objection. Relevance.

8 THE COURT: It might be relevant. Overruled.

9 THE WITNESS: I would not necessarily agree with
10 you.

11 Q. (By Mr. Ayad, continuing) You would not necessarily.
12 Okay.

13 Did you --

14 THE COURT: Just one second.

15 Mr. Morton, would you go around to chambers.

16 MR. MORTON: Sure.

17 THE COURT: You may proceed.

18 MR. AYAD: Thank you, judge.

19 Q. (By Mr. Ayad, continuing) Did you have him initial by
20 his answers as this is indeed what you said?

21 A. No, I did not.

22 Q. So we're left, Agent Elverson, with your statement, law
23 enforcement's statement as to what this defendant said, isn't
24 that correct?

25 A. Um, in the context of what we've discussed, yes.

1 Q. Okay.

2 Did you ask Mr. Al-Jumail when he answered you as
3 to what his position, you said a manager, did you ask him, do
4 you know what a manager is?

5 A. Actually, we discussed his role for some time. It --

6 Q. (By Mr. Ayad, continuing) My question to you, Agent
7 Elverson --

8 THE COURT: No. Let him answer.

9 THE WITNESS: It took a while of discussion to
10 essentially settle on an agreed term, that manager was the best
11 fit for his position.

12 Q. (By Mr. Ayad, continuing) So there was some discussion
13 about what is a manager, I mean, did you come up with that
14 term, "manager"?

15 A. I really can't recall whether I came up with the term or
16 not.

17 Q. So you really don't know?

18 A. That's what I just said, yes.

19 Q. And he described some of his duties, Agent Elverson?

20 A. Yes, he did.

21 Q. And he said some of his duties deal with patient issues?

22 A. Correct.

23 Q. Did he describe other duties he had?

24 A. Yes, he did.

25 Q. Did he talk to you about paying bills, writing checks,

1 paying bills?

2 A. He did talk about writing checks.

3 Q. Yeah. Okay.

4 Did he talk to you about paying utility bills?

5 A. No.

6 Q. Did you ask him the question, what type of checks you
7 wrote?

8 A. I don't know.

9 Q. Did he indicate to you who owned swift?

10 A. Yes, he did.

11 Q. And who did he tell you owned Swift?

12 A. Ryan Ali.

13 Q. And did he tell who Ryan Ali bought it from?

14 A. He stated he bought it from an individual named Sharma.

15 Q. Correct.

16 And did he tell you who Associates was owned by?

17 A. Yes, he did.

18 Q. Who was that?

19 A. Firas Alky.

20 Q. Did he tell you who Alky bought it from?

21 A. In his words an "Indian guy".

22 Q. Did you think he was referring to Mr. Sharma?

23 A. I did not know who Mr. Sharma was, so I did not know.

24 Q. Okay.

25 He didn't tell you, I own Swift, did he?

1 A. No.

2 Q. He didn't tell you, I own Associates, did he?

3 A. No.

4 Q. He didn't tell you, I owned ABC, did he?

5 A. No.

6 Q. He didn't tell you, I own Accessible, did he?

7 A. No.

8 Q. And you also testified on direct, Agent Elverson, that Mr.
9 Al-Jumail basically was kind of handed over the duties while
10 Mr. Alky was out of town for a month or so; isn't that correct?

11 A. Yes. He stated he was placed in charge.

12 Q. He was placed in charge while Alky was gone out of town;
13 isn't that correct?

14 A. That's correct.

15 Q. And in particular with those duties he would have to write
16 a number of checks; isn't that correct?

17 A. That is correct.

18 Q. And I would -- did you take that to mean that he would
19 have to pay the, write checks for the operation of the
20 business?

21 A. It's possible. I don't know.

22 Q. Okay.

23 That would entail payroll, taxes, utilities,
24 employees, thing of that nature?

25 A. I don't know what that would entail.

1 Q. Did you ask him who all the liaisons were that you
2 testified on direct about?

3 A. I don't believe we asked him all liaisons. He did
4 mention, I believe, two specific liaisons.

5 Q. Okay.

6 And he only mentioned two specific liaisons; isn't
7 that correct?

8 A. That is correct.

9 Q. Did you ask him, who are all the liaisons, list them for
10 me? Did you ask him that question?

11 A. I don't remember the way I worded the questions.

12 Q. So you don't know?

13 A. I don't know.

14 Q. Did you even ask him whether he knew who all the liaisons
15 were?

16 A. Again, I don't know how the question was asked.

17 Q. You don't know?

18 A. I don't know.

19 Q. Did you ask him whether he wrote all the checks for all
20 the liaisons?

21 A. Well, it was my understanding from his statement that
22 while Mr. Alky was out of town, yes, he wrote all the checks
23 for the liaisons.

24 Q. What about when Mr. Alky wasn't out of town, did you ask
25 him that question, when Mr. Alky isn't out of town you don't

1 take care of operations; did you write all the checks for all
2 the liaisons?

3 A. He stated that Mr. Alky generally dealt with the liaisons.

4 Q. And that's my point. It was Mr. Alky that generally dealt
5 with the liaisons; isn't correct, Agent Elverson?

6 A. That's what he stated, yes.

7 Q. And Tony didn't tell you who got the liaisons, basically,
8 who brought the liaisons in, did he tell you that?

9 A. What do mean by "who brought the liaison"?

10 Q. Who brought, who hired the liaisons. He didn't tell you
11 who hired the liaisons, did he?

12 A. No, I don't think so.

13 Q. You don't know if it was Alky that hired the liaisons, do
14 you?

15 A. I don't know.

16 Q. You don't know if it was Sharma who hired the liaisons, do
17 you?

18 A. No.

19 Q. And Tony Al-Jumail didn't tell you that he got the
20 patients for, for the liaisons, did he?

21 A. No.

22 Q. Now there was some testimony by government counsel on the
23 record, questioned you how much, if Tony knew how much
24 basically these liaisons were paid for each patient, do you
25 remember that?

1 A. I do remember that.

2 Q. And you said several hundred dollars for each patient?

3 A. That's correct.

4 Q. Isn't it true that he told you it was Alky that paid the
5 several hundred dollars, not Tony, didn't he tell you that?

6 A. He explained that Alky generally dealt with liaisons and
7 when Alky was out of town, Mr. Al-Jumail would pay the
8 liaisons.

9 Q. Okay.

10 But he told you it was Alky that paid the several
11 hundred dollars, not himself? He told you that?

12 MR. HURFORD: Objection. Asked and answered.

13 MR. AYAD: That's not asked.

14 THE COURT: It is asked and answer, but if you
15 want him to answer it again, I will allow it since it's --

16 MR. AYAD: Well, my question --

17 THE COURT: -- phrased slightly differently.

18 MR. AYAD: It's a specific question --

19 THE COURT: Excuse me.

20 MR. AYAD: I'm sorry, judge. I apologize.

21 THE COURT: You may answer.

22 THE WITNESS: Liaisons -- Mr. Al-Jumail stated
23 that liaisons were paid several hundred dollars. My
24 understanding during the interview is that payment amount was
25 the same regardless if Mr. Al-Jumail was paying them or whether

1 Mr. Alky was paying them.

2 Q. But my question, Agent Elverson, was he told you Alky paid
3 several hundred dollars?

4 THE COURT: Now that question has been asked and
5 answered more than once. Go to a new question, please.

6 Q. (By Mr. Ayad, continuing) And there was some questions
7 about recertification, do you remember that Agent Elverson?

8 A. Yes.

9 Q. All right.

10 And wasn't it your testimony, sir, that it was a
11 doctor, a doctor that actually does the recertification; isn't
12 that correct?

13 A. Correct.

14 Q. It wasn't Tony --

15 MR. HURFORD: Objection, your Honor. It misstates
16 the testimony. He testified as to what Mr. Al-Jumail said, not
17 as to what actually happened.

18 THE COURT: For the record, rephrase your
19 question.

20 Q. (By Mr. Ayad, continuing) You were told that it was a
21 doctor that does the recertification; isn't that correct?

22 A. That is correct.

23 Q. It wasn't Tony that did the recertification, correct?

24 A. Mr. Al-Jumail did not tell me that he did the
25 recertification.

1 Q. Isn't it true, sir, that from speaking to Mr. Al-Jumail
2 you learned that initially he didn't know how much liaisons
3 were paid, initially?

4 A. No, that's not correct.

5 Q. Didn't you say in your statements that initially Mr.
6 Al-Jumail basically stated that he was unaware of how much
7 liaisons were paid?

8 A. Initially in the interview he did state that he was
9 unaware, correct.

10 Q. That's my question. Initially he indicated he was
11 unaware, correct?

12 A. Yes. I just wasn't clear on your wording.

13 Q. Okay.

14 And isn't it true from your discussions with Mr.
15 Al-Jumail you learned that Tony was being told what to do by
16 Alky?

17 A. He did say that, yes.

18 Q. And isn't it true that Tony denied that patients were paid
19 solely for their biographical information?

20 A. That's correct.

21 Q. And when they did go out, there was testimony -- I'm
22 sorry. Strike that.

23 There was some testimony as to when there were
24 complaints about patients complaining that Tony will go out and
25 speak with them; isn't that correct?

1 A. I don't believe I stated that he went out and spoke with
2 them.

3 Q. Well, I'm sorry. I don't mean to put words in your mouth.
4 Can you please tell me what you testified to?

5 A. What I stated was that Mr. Al-Jumail explained that when
6 he would get to the office one of his duties was to respond to
7 patient complaints.

8 Q. Patient complaints, correct?

9 A. Correct.

10 Q. And did he tell you that he was directed by Alky to do so?

11 A. He stated that sometimes he would direct his staff to deal
12 with patient complaints and sometimes he would deal with
13 patients directly at the direction of Mr. Alky.

14 Q. Okay. But it was at the direction of Mr. Alky; is that
15 correct?

16 A. For some patients.

17 Q. Did you say, "some patients" in your statements?

18 A. I believe -- I mean, you're looking at my statement, you
19 can recite it better than I can.

20 THE COURT: That's not the answer. Please just
21 answer the question.

22 THE WITNESS: Okay. He stated that he directed
23 staff to deal with some of the patients and he dealt directly
24 with some of the patients himself at the direction of Mr. Alky.

25 Q. (By Mr. Ayad, continuing) But you didn't say that in your

1 statement. Would you like me to refresh your memory?

2 A. Please.

3 MR. AYAD: Judge, may I approach the witness?

4 THE COURT: You may.

5 Q. (By Mr. Ayad, continuing) Please read that top
6 paragraph, Agent Elverson?

7 A. Would you like me to read the beginning of the paragraph?
8 It starts on the previous page.

9 Q. You could, please, sir. Just please don't read it out
10 loud.

11 A. I'm sorry. Don't read it out loud?

12 THE COURT: Don't read it out loud. Just to
13 yourself.

14 Q. (By Mr. Ayad, continuing) Don't read it out loud.

15 A. Okay.

16 Okay.

17 Q. Isn't it true, sir, that you said sometimes Al-Jumail
18 would deal with the patients himself as directed by Alky, not
19 deal with some of the patients; isn't that correct?

20 A. That is correct.

21 Q. And isn't it true that when you inquired as to whether a
22 patient is ever called about not receiving any money, do you
23 remember what Al-Jumail told you in response to that?

24 A. He stated that he has never received a call with that
25 complaint.

1 Q. Okay.

2 You never asked him -- I'm sorry. You never asked
3 Mr. Al-Jumail as to who told you to write certain checks here
4 and there, any type particular checks, did you, sir?

5 A. I don't remember asking him that particular question.

6 Q. So you don't really know who directed him to write certain
7 checks to whatever, correct?

8 Again, my question is, you don't know the checks
9 that Mr. Al-Jumail wrote, who directed him to write those
10 checks?

11 A. Well, he was placed in charge by Mr. Alky and he stated
12 that one of his duties of being in charge while Mr. Alky was
13 gone was to write checks to liaisons.

14 Q. But you don't know if Mr. Alky instructed him to write
15 this check for this person, this check to that person, this
16 check to this entity, you don't know that, correct?

17 A. I do not know that.

18 MR. AYAD: Nothing further, judge. Thank you.

19 THE COURT: Thank you.

20 Mr. Johnson, do you have questions for this
21 witness?

22 MR. JOHNSON: I don't, your Honor.

23 THE COURT: Ms. Mannarino, do you have any
24 questions for this witness?

25 MS. MANNARINO: I do not. Thank you.

1 THE COURT: Mr. Louisell?

2 MR. LOUISELL: Just two, your Honor.

3 CROSS-EXAMINATION

4 BY MR. LOUISELL:

5 Q. Good afternoon, Mr. Elverson.

6 A. Good afternoon.

7 Q. Mr. Elverson, when you were assigned to arrest Mr.

8 Al-Jumail, were you told what the overall investigation was?

9 A. Usually before an arrest like this, there's a bit of an
10 overall brief the day before and then the morning after there's
11 a very short brief on specifications of the arrest.

12 Q. And was it accurate that the overall investigation was an
13 investigation of --

14 MR. HURFORD: Objection. Calls for hearsay, your
15 Honor, as to what was told to Mr., to this witness about an
16 investigation.

17 THE COURT: That's sustained in the form you're
18 presenting it. Rephrase the question if you'd like or go to a
19 new one.

20 MR. LOUISELL: Thank you, your Honor.

21 Q. (By Mr. Louisell, continuing) Did you know that you were
22 participating in an investigation of Sachin Sharma?

23 A. I really can't remember at the time. I would -- I really
24 can't remember for sure.

25 MR. LOUISELL: May I --

1 Q. (By Mr. Louisell, continuing) Would your statement or
2 your -- your report refresh your recollection?

3 A. Um, would that be the report of the interview with Mr.
4 Al-Jumail?

5 Q. Yes.

6 A. I don't believe that it would.

7 MR. LOUISELL: May I show it to him, your Honor?

8 THE COURT: Yes, you may.

9 MR. LOUISELL: Thank you.

10 Q. (By Mr. Louisell, continuing) This is your report, is it
11 not, or a copy of your report?

12 A. Yes. Okay, yeah, in the case title it does mention it.

13 Q. And in the case title does it mention that the
14 investigation was of a Sachin Sharma?

15 A. It does, but can I make a note about this?

16 Q. No. I just want you to answer my question.

17 A. Okay.

18 Q. So it does mention that you were investigating Sachin
19 Sharma?

20 A. The case title on this piece of paper does, correct.

21 Q. And does that piece of paper indicate when that
22 investigation commenced?

23 A. Yes, it does.

24 Q. And what month and date, and year was that?

25 MR. HURFORD: Objection, your Honor, if the

1 witness has personal knowledge as to when the investigation
2 commenced. I think he testified, as its stands he's asking,
3 he's being asked what it says on a piece of paper that's not in
4 evidence.

5 THE COURT: Rephrase your question.

6 MR. LOUISELL: Thank you, your Honor.

7 THE COURT: That's sustained as to the form of
8 question as currently asked.

9 Q. (By Mr. Louisell, continuing) Did you prepare that
10 report?

11 A. Yes.

12 Q. Okay.

13 And in preparing that report did you place down a
14 date of what, when the overall investigation of Sachin Sharma
15 commenced?

16 A. No.

17 Q. Is there a date on that report?

18 A. On this piece on paper?

19 Q. Yes.

20 MR. HURFORD: Objection to any further questions
21 about the date of when the investigation commenced.

22 THE COURT: Based on what?

23 MR. HURFORD: Based on the fact this witness said
24 he didn't place any date on there and again he doesn't have
25 knowledge as to when an investigation commenced.

1 THE COURT: He doesn't appear to have any
2 personal knowledge about it, Mr. Louisell, would you like to
3 respond?

4 MR. LOUISELL: Yes, your Honor, I would. It's a
5 mystery to me having seen the report and with knowing what's on
6 that report, and it's his report, it's a mystery to me how he
7 cannot recall or refresh his recollection --

8 MR. HURFORD: It sounds like an argument right now
9 instead of an evidentiary response.

10 THE COURT: It does. Whether or not it's a
11 mystery to you is argument.

12 MR. LOUISELL: Okay. That's irrelevant.

13 Your Honor, I think he can refresh his
14 recollection. I don't know that he read the entire report when
15 he answered that question.

16 THE COURT: If you would like him to read the
17 whole report, then you can pose it again if you'd like.

18 MR. LOUISELL: Okay.

19 Q. (By Mr. Louisell, continuing) Actually, to shorten this
20 up, I would like you to read just the writing before you get to
21 the report of the statement.

22 THE COURT: Just walk up and show him where you'd
23 like him to read.

24 MR. LOUISELL: Thank you.

25 THE WITNESS: Your Honor, would I be able to

1 explain --

2 THE COURT: You might be able to do that.

3 Have you read it?

4 THE WITNESS: I have read it, your Honor.

5 THE COURT: You may pose a new question.

6 MR. LOUISELL: Okay.

7 Q. (By Mr. Louisell, continuing) Having read the report,
8 does that refresh your recollection as to when the
9 investigation of Sachin Sharma was initiated?

10 A. It does not refresh my recollection, but can I read the
11 date on this piece of paper.

12 Q. How did it get there?

13 THE COURT: How did it get there. You can ask
14 that.

15 Q. (By Mr. Louisell, continuing) How did that date get
16 there?

17 A. Our file system placed the date on this version of this
18 form.

19 Q. And do you know what that date is?

20 MR. HURFORD: Objection, your Honor.

21 THE COURT: Sustained.

22 Go to a new question.

23 MR. LOUISELL: I have no further questions, your
24 Honor.

25 THE COURT: Thank you, Mr. Louisell.

1 Do you have any redirect?

2 MR. HURFORD: I do, your Honor.

3 THE COURT: You may.

4 MR. HURFORD: Thank you.

5 May we inquire as to whether there's an additional
6 cross-examination?

7 THE COURT: Yes, we can.

8 Do you have any additional cross-examination?

9 MR. AYAD: No, judge.

10 MS. MANNARINO: I have nothing.

11 THE COURT: Mr. Johnson?

12 MR. JOHNSON: Nothing, your Honor.

13 THE COURT: Very well.

14 Please proceed.

15 REDIRECT EXAMINATION

16 BY MR. HURFORD:

17 Q. Do you remember whether or not you spoke English to Mr.
18 Al-Jumail?

19 A. I do. I spoke English to him.

20 Q. And that was on May 2nd?

21 A. Correct.

22 Q. Did he appear to understand your questions?

23 A. Yes, he did.

24 Q. And his responses to you, were they in English?

25 A. Yes, they were.

1 Q. And did you understand what he was saying to you?

2 A. Yes, I did.

3 Q. Did he appear to have the ability to communicate in
4 English?

5 A. Yes, he did.

6 Q. Did he look drunk?

7 A. No, he did not.

8 Q. Did he look --

9 MR. AYAD: Judge, I would object to.

10 THE COURT: What's your objection?

11 MR. AYAD: Just as to foundation of looking drunk.
12 What is looking drunk?

13 THE COURT: You can ask him that later if you'd
14 like.

15 I'm sorry. Did he look drunk?

16 THE WITNESS: No, he did not, your Honor.

17 Q. (By Mr. Hurford, continuing) Did he look to you that he
18 was in a state of mind where he was unable to understand what
19 was going on?

20 A. No, he did not.

21 Q. And did he, in fact, at some point in time ask to take
22 blood pressure medication?

23 A. Yes.

24 Q. You were asked a lot about what you do know and don't know
25 and do remember and don't remember. Do you remember whether

1 Mr. Al-Jumail told you he paid liaisons for patients?

2 A. Yes, I do.

3 Q. Do you remember him telling you that he paid them with
4 checks?

5 A. Yes.

6 Q. Did you remember him telling you that he paid several
7 hundred dollars for patients, per patient for those liaisons?

8 A. Correct.

9 Q. And do you remember him telling you as we sit here today
10 that Associates billed for services that weren't provided?

11 A. Yes.

12 MR. HURFORD: No further questions, your Honor.

13 MR. AYAD: Judge, if I may.

14 THE COURT: You may ask additional questions, Mr.
15 Ayad.

16 RECROSS-EXAMINATION

17 BY MR. AYAD:

18 Q. Agent Elverson, do you know how many millions of people in
19 this country know how, can understand the language but cannot
20 read, do you know that number?

21 A. I do not.

22 Q. So, just by speaking the language you would agree with me
23 that doesn't mean necessarily he knows how to read, isn't that
24 a fair statement?

25 A. That's fair.

1 Q. Okay.

2 And what's looking drunk to you, Mr. Elverson,
3 Agent Elverson?

4 A. In my experience looking drunk would be slurred speech,
5 bloodshot eyes, eyes not tracking an object very accurately,
6 possible difficulty standing, possible nausea.

7 Q. But an individual's alcohol content can be very high and
8 yet still not have slurred speech; isn't that correct?

9 A. I'm not an expert on alcohol levels.

10 Q. That is correct.

11 And you're not an expert as to whether he's drunk
12 or not drunk; isn't that correct?

13 A. That is correct.

14 Q. And, again, we're going back to this particular statement.
15 You said that he told you he paid for the liaisons or didn't he
16 tell you that Alky told him to pay for the liaisons?

17 A. I'm sorry. Can you rephrase your question?

18 Q. You indicated right now on redirect that, is that he paid
19 for liaisons. Isn't it true that you stated that Alky paid
20 liaisons several hundred dollars for patients?

21 A. I made three separate statements. One was that Alky
22 generally paid liaisons; one was that the amount that liaisons
23 got paid was several hundred dollars, and the other was that
24 Mr. Al-Jumail paid liaisons when Mr. Alky was out of town.

25 Q. But the second -- let's go to the second part of that out

1 of the three things. The second part you said there was
2 several hundred dollars paid to liaisons.

3 Isn't it true that Tony Al-Jumail told you Alky
4 paid liaisons several hundred dollars?

5 MR. HURFORD: This question has been asked and
6 answered.

7 MR. AYAD: No. He brought it back up, judge.

8 THE COURT: I know, but it has been asked and
9 answered.

10 MR. AYAD: It's a comment on what he said.

11 THE COURT: Excuse me.

12 MR. AYAD: I'm sorry.

13 I was stopped before, judge, as to asking this
14 particular question because his objection asks the question and
15 then he doesn't want me to answer that.

16 THE COURT: Because it has been asked and
17 answered. But you may ask it again. Phrase your question.

18 Q. (By Mr. Ayad, continuing) Isn't it true that Mr.
19 Al-Jumail said Alky paid several hundred dollars, not him, Alky
20 paid several hundred dollars?

21 A. What he stated was liaisons were paid several hundred
22 dollars.

23 Q. Could I show you your document to refresh your memory,
24 sir?

25 MR. AYAD: Judge, may I approach the witness?

1 THE COURT: You may.

2 Q. (By Mr. Ayad, continuing) Agent Elverson, if you could
3 please look in the middle of that page, your statement. Tell
4 me where he said he paid several hundred dollars for patient,
5 for liaisons?

6 Isn't it true, sir, that you wrote in that
7 document Alky paid liaisons several hundred dollars for a
8 patient; isn't that true?

9 A. That is true.

10 Q. So it wasn't Tony that told you he paid several hundred
11 dollars for all those patients, it was Alky, wasn't that true?

12 Wasn't that true?

13 A. Can you ask the question again?

14 THE COURT: Don't yell at the witness. You may
15 pose the question again if you choose to.

16 Q. (By Mr. Ayad, continuing) Isn't it true that he told you
17 Alky --

18 THE COURT: Excuse me.

19 MR. AYAD: I'm sorry, your Honor.

20 I mean, you know, we can stay here all day, judge.

21 THE COURT: Excuse me.

22 MR. AYAD: Sorry, judge.

23 THE COURT: You may pose your question again,
24 okay, but don't shout.

25 MR. AYAD: I'm sorry, judge.

1 Q. (By Mr. Ayad, continuing) Isn't it true that he told you
2 Alky --

3 THE COURT: He who? He who?

4 Q. (By Mr. Ayad, continuing) Alky --

5 THE COURT: No.

6 Q. (By Mr. Ayad, continuing) Mr. Al-Jumail told you that Alky
7 paid several hundred dollars, not him, not Tony?

8 A. The first half of that is true, he didn't say anything
9 about not him.

10 Q. I don't understand your answer.

11 A. You just said, did Mr. Al-Jumail tell you that Alky paid
12 liaisons several hundred dollars and not him. He did not say
13 "and not him".

14 Q. Okay.

15 But my question is, it was he told you that Alky
16 paid the several hundred dollars for patients, isn't that
17 correct, for liaisons for patients, correct?

18 A. He stated that Mr. Alky paid liaisons several hundred
19 dollars.

20 Q. That's correct.

21 My second question is he didn't tell you he paid
22 several hundred dollars for patients?

23 A. He stated that he paid liaisons, he did not state the
24 specific dollar amount that he paid them.

25 Q. Sir, you're talking about when Mr. Alky was out of town

1 for a month he would write the checks for liaisons and others;
2 isn't that correct?

3 A. That is correct.

4 Q. Thank you.

5 MR. AYAD: Nothing further, judge.

6 THE COURT: Do you have anything further on the
7 defense side, Mr. Louisell?

8 MR. LOUISELL: No, your Honor.

9 THE COURT: Mr. Johnson and Ms. Mannarino, do you
10 have anything else?

11 MS. MANNARINO: No.

12 MR. JOHNSON: No, your Honor.

13 THE COURT: Very well.

14 Do you have any questions, Mr. Hurford?

15 MR. HURFORD: No, your Honor.

16 THE COURT: You may step down, sir. You may step
17 down. You're excused.

18 Is he excused?

19 MR. HURFORD: From my perspective, he is, your
20 Honor.

21 THE COURT: Does anyone else think he is not
22 excused?

23 MR. AYAD: No objection.

24 THE COURT: Very well. You're excused.

25 THE WITNESS: Thank you, your Honor.

1 (At 2:19 p.m. witness excused)

2 THE COURT: I'm going to send the jury home. I
3 appreciate you being willing to stay until 2:30. We're letting
4 you out a little earlier than that, if that inconveniences
5 anybody, I'm really sorry about it.

6 Tomorrow you're coming back at 9 o'clock, right?

7 THE JURY PANEL: Right.

8 THE COURT: Okay. I appreciate it.

9 Remember that you're not permitted to talk about
10 the case among yourselves or with anyone else, nor are you
11 allowed to use any social media to communicate anything about
12 the case or to do any research about the case or anyone
13 involved in the case, nor are you to go to any of the places
14 that are mentioned during the course of this proceeding.

15 And you need to leave your notebooks in the same
16 fashion that you've left them every other night and I'll see
17 you tomorrow morning. Have a good evening. Hopefully it won't
18 rain on us so much.

19 (At 2:20 p.m. jury excused)

20 THE COURT: Okay. Do you have anything else we
21 need to take up today?

22 MR. HURFORD: There is one, two issues, your Honor.

23 THE COURT: You can all be seated.

24 MR. HURFORD: Jury instructions. It was our
25 position that the TGW information did not constitute 404(b)

1 evidence, that it was inextricable intertwined.

2 Your Honor's ruling yesterday was based on 404(b).
3 That being the case, it's the government's position that 404(b)
4 instructions should be read to the jury both in close proximity
5 to that testimony and at the final jury instructions. We
6 prepared a 404(b) instruction and provided to defense counsel.
7 Just raising the issues now.

8 THE COURT: So you want it read when?

9 MR. HURFORD: Well, I'd like an agreed upon
10 instruction and I think it should be, my understanding of the
11 jury in the Sixth Circuit jury instructions essentially there's
12 an indication that says the 404(b) instruction should be read
13 in close proximity to the 404(b) testimony. Again, it's our
14 position that 404(b) jury instruction is not necessary, but I'm
15 bringing it to the attention of the court now.

16 THE COURT: Okay.

17 MR. HURFORD: And then if the court is inclined to
18 read that instruction, I'd asked based on Mr. Ayad's
19 cross-examination for the instruction to be read from his
20 instructions which were 8.08 and they're on page 59 of his
21 instructions about that. The verdict is limited to the charges
22 against these defendants. I'd just ask that if the 404(b)
23 instruction be read, that the court also read the 8.08
24 instruction as well.

25 THE COURT: Okay. Mr. Johnson -- does anyone on

1 the defense side want to be heard on that?

2 MR. AYAD: Judge, I'm sorry. I'm a little
3 confused. I thought we were dealing with 7.13 and, I guess, I
4 heard 8.08 was dealing with 404(b).

5 I'm sorry. Is the government counsel saying that
6 he preferred that we address the reference to other individuals
7 not being charged, is that what we're talking about? I'm
8 sorry.

9 MR. HURFORD: Yes. There was a sidebar -- my
10 recollection there was a sidebar. I objected to numerous
11 occasions when Mr. Ayad was asking the witness about who and,
12 who was and was not being charge in this case, and I asked that
13 the instruction be read at that time and the Court stated that
14 it would read the instruction when Mr. Ayad was done, when that
15 witness was done, and I failed to bring that to the Court's
16 attention.

17 THE COURT: And I failed to remember it.

18 Do you have any objection to that being read at
19 this time as well as the 404(b) instruction?

20 MR. AYAD: No, judge. We've done our own research
21 on it. I mean, it's not a hundred percent as to what the
22 government's position is, but I feel it's enough for this honor
23 to rule on the government's position, so we will have no
24 objection to that.

25 THE COURT: Okay.

1 Mr. Johnson?

2 MR. JOHNSON: Your Honor, I think this is probably
3 a beneficial addition. I would like to consider the language
4 and perhaps tell the Court in the morning.

5 THE COURT: That's fine.

6 You're looking at 8.08 on page 59 of Mr. Ayad's
7 instructions, and what other instructions 7.13.

8 MR. JOHNSON: Yes, your Honor.

9 THE COURT: It is?

10 MR. HURFORD: I think what Mr. Johnson is talking
11 about with respect to the language is 7.13 that's what the
12 government just prepared and presented to him.

13 Eight point oh eight, I believe, is taken
14 strictly, cut and pasted from pattern instructions.

15 THE COURT: Okay.

16 MR. HURFORD: Seven point one three, which is the
17 404(b) instruction is not a cut and paste instruction. It's an
18 instruction that has, that has to be manipulated.

19 THE COURT: Do you have another copy of it?

20 MR. HURFORD: Yes, I do have another copy.

21 THE COURT: Because I'll have a copy of it,
22 because I don't currently have a copy of it; is that right?

23 MR. HURFORD: That's correct, your Honor.

24 THE COURT: Thank you, Mr. Hurford.

25 Okay. I'll take a look at it as well.

1 Anybody have any -- Mr. Hurford, do you have any
2 other issues?

3 MR. HURFORD: I have no other issues, your Honor.

4 THE COURT: How about you, Mr. Louisell?

5 MR. LOUISELL: No, your Honor.

6 THE COURT: And, Mr. Johnson, other than wanting
7 to review just 7.13?

8 MR. JOHNSON: No, your Honor.

9 THE COURT: Okay. If you don't like it and you
10 want to prepare a different one, you should present that to the
11 Court --

12 MR. JOHNSON: Understood.

13 THE COURT: -- before we take up at 9 o'clock
14 tomorrow.

15 Mr. Ayad?

16 MR. AYAD: Nothing further, your Honor.

17 THE COURT: Ms. Mannarino?

18 MS. MANNARINO: Not at this time. I may have some
19 issues with 7.13. I'd like to address it --

20 THE COURT: You have this copy also?

21 MS. MANNARINO: I have this copy. I'll discuss it
22 with Mr. Johnson.

23 THE COURT: That would be good.

24 MR. HURFORD: For the record, your Honor, I believe
25 the next witnesses that will be called in this case are Barbara

1 Humes, Casandra Cochran, and Ayah Omar.

2 THE COURT: How spell Omar's first name.

3 MR. HURFORD: A-Y-A-H.

4 THE COURT: And the last name is what again?

5 MR. HURFORD: O-M-A-R.

6 THE COURT: Okay.

7 MR HURFORD: And I will send an e-mail to counsel
8 with respect to the new exhibits that we seek to admit during
9 the testimony of those witnesses.

10 THE COURT: Okay. By "new" you mean exhibits
11 that have not already been admitted in evidence.

12 MR. HURFORD: That's correct, your Honor.

13 THE COURT: Okay.

14 MR. HURFORD: I also would say at this time that
15 the government, I can see the light at the end of the tunnel
16 with respect the government's case.

17 THE COURT: Okay.

18 MR. HURFORD: And I've only received witness lists
19 from Mr. Louisell and Mr. Ayad.

20 I've received exhibits and exhibit lists from Mr.
21 Louisell and Mr. Ayad and no one else at this time.

22 And so I would ask for the same courtesy that we
23 have extended.

24 THE COURT: Okay. And where -- when do you think
25 you're going to conclude?

1 MR. HURFORD: I think it will be at the end of this
2 week, your Honor, based on the current pace.

3 THE COURT: Okay.

4 Just in preparation, you should know that when the
5 government rests if anyone is going to put on evidence, I will
6 expect that we will proceed thereto barring any motions or
7 anything you want to bring. But I will be expecting you not to
8 say, I don't have a witness ready to put on.

9 You kind of understand that, right?

10 MR. AYAD: Yes, your Honor.

11 MR. LOUISELL: Yes, your Honor.

12 THE COURT: Mr. Ayad, I'll make it a little bit
13 more plain. At the end of these proceedings it is likely that
14 someone will bring a motion.

15 MR. AYAD: Yes.

16 THE COURT: After that motion has been heard and
17 potentially ruled on, I will expect, if we have time in that
18 day, to immediately proceed to any presentations by defense,
19 okay?

20 MR. AYAD: That's correct.

21 THE COURT: I won't be expecting to have a
22 request, can we come back tomorrow, or can we have an
23 additional length of time, unless you have some surprise.

24 MR. AYAD: That's understood, judge.

25 THE COURT: Everybody else understood that,

1 right?

2 MR. LOUISELL: Yes, your Honor.

3 THE COURT: Okay. Good.

4 Anything else you want to take up Ms. Mannarino?

5 MS. MANNARINO: Only I just want to make sure I
6 understand. The government said new exhibits, something we
7 have not seen in our exhibit books?

8 THE COURT: No, we went over this yesterday.

9 I asked them if they would tell you what exhibits
10 they were going to use. They did not want to expose their
11 strategy of the case or their theory of the case, or some word
12 they used. I'm sorry, I don't remember precisely. And so I
13 asked them if they would tell you what new exhibits, meaning,
14 ones that had not been previously admitted into evidence.

15 So, they have the authority to use whatever has
16 been already admitted with any upcoming witness.

17 MS. MANNARINO: I understand that, but I just
18 thought I heard him say it was not something that we had been
19 previously provided. I just wanted --

20 THE COURT: He did say "new", but I think he
21 meant things in the exhibit book not yet introduced into
22 evidence.

23 But I shouldn't say that, because I don't know
24 that that's what you meant.

25 MR. HURFORD: Your Honor interpreted my words

1 perfectly.

2 MR. MANNARINO: Thank you. That'S all.

3 THE COURT: Okay. Anything else?

4 MR. HURFORD: No, your Honor.

5 THE COURT: Okay. I'll see you tomorrow morning.

6 (At 2:29 p.m. proceedings concluded)

7

8 C E R T I F I C A T E

9 I, Marilyn J. Jones, Official Court Reporter of the
10 United States District Court, Eastern District of Michigan,
11 appointed pursuant to the provisions of Title 28, United States
12 Code, Section 753, do hereby certify that the foregoing pages
13 1-56, inclusive, comprise a full, true and correct transcript
14 taken in the matter of United States of America versus Abdul
15 Malik Al-Jumail D-3, Felicar Williams D-4, Jamella Al-Jumail
16 D-6 and Dr. Carey Vigor D-10, 12-cr-20272 on Tuesday, August
17 12, 2014.

18

19

20 /s/Marilyn J. Jones
21 Marilyn J. Jones, CSR, RPR
22 Federal Official Reporter
23 231 W. Lafayette Boulevard, Suite 123
24 Detroit, Michigan 48226

25 Date: May 15, 2016